IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 2533 OF 2001 (M/S)
Old CMWP No. 19773 of 1998

State of U.P. through Competent Authority
Urban Land Ceiling, Dehradun
… **Petitioner.**

Versus

1. Atma ram son of Buddhu,
   Resident of Hathi Barkala, Dehradun
2. The District Judge, Dehradun.

… **Respondents.**

Sri Nand Prasad, Learned Standing Counsel for the State.

Dated 27-03-2006

Hon'ble B.S. Verma, J.

By means of the present Writ Petition, the petitioner-State has challenged the judgment and order dated 14-10-1996 passed by the District Judge, Dehradun (respondent no. 2) in Urban Land Ceiling Appeal No. 139 of 1996 and 111 of 1992 (Atma Ram Vs. State of U.P. By the impugned Judgment and order ***(Annexure-1to the writ petition),*** respondent no.2 allowed the appeal and held that the order dated 30.4.1988 passed by the Competent Authority declaring 5007.04 Sq. meters land of the landholder is quashed as illegal and without jurisdiction.

Brief facts giving rise to the present writ petition are that in consequence of the proceedings drawn under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (***for short the Act)*** 5007.04 sq.mt. land of the landholder Atma Ram was declared as excess vacant land by the order dated 30.4.1988 passed by Competent Authority, Urban Land Ceiling, Dehradun. And consequential order under Section 10(5) of the Act was issued for delivery of possession.

The land belonged to Budhu son of Tulsi, the deceased father of the respondent no.1. He filed the statement of property held by him after the enforcement of the said Act. Notice under Section 8(3) of the Act was served upon the landholder, who filed objection alleging therein that he had *Abadi* on 0.14 acre of land in Khasara No. 283 and claimed that his remaining land was agricultural land. The Competent Authority found that the entire non-agricultural land held by the landholder was within the ceiling limit of 2000 sq.mt. and the rest was agricultural land and dropped the proceedings. After enforcement of Master Plan in Dehradun, fresh notice was issued to the landholder calling upon him to file fresh return. After completing necessary formalities and conducting survey and on the basis of the evidence on record, the Competent Authority, Urban Land Ceiling declared 5007.04 sq.mt. land in possession of the respondent no.1 as surplus vacant land and passed the impugned order dated 30.4.1988. Aggrieved, the landholder went up in appeal before the respondent no.2. The learned District Judge after hearing both the parties passed the impugned judgment and order dated 14.10.1996 as mentioned above. Aggrieved by the impugned order, the State has come up before this Court in the Writ Petition.

I have heard learned Standing Counsel for the State and perused the record.

The Act Urban Land (Ceiling and Regulation) Act, 1976 (Act No. 33 of 1976) was repealed by the Central Act No. 15 of 1999. The Legislature of State of U.P. has since adopted the provisions of the Urban Land (Ceiling and Regulation) Act 1999, by a resolution as required by Article 252(2) of the Constitution, which has come into force in Uttar Pradesh on 18-03-1999 and the same are also applicable in the State of Uttaranchal.

Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 provides as under:

> ***"4. Abatement of legal proceedings.- All proceedings relation to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any Court, Tribunal or other authority shall abate;***
>
> ***Provided that this section shall not apply to the proceedings relating to Sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land possession of which has been taken over by the State Government or any person duly authorized by the State Government in this behalf or by the competent authority."***

As stated by the learned Standing Counsel, Sri Nand Prasad, appearing on behalf of the State, no declaration has been published under Section 10(3) of the principal Act, therefore, no question of vesting of the land in the State or taking over possession arises. The effect of the repealing Act on present case is that where for land in dispute, no declaration was published under Section 10(3) of the Act, there is no question of vesting the land in the State or taking over possession of it. The present proceedings have to be abated and are hereby abated under Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999.

The facts of the case are squarely covered by the judgment of the Apex Court in the case of ***"Pt. Madan Swaroop Shrotiya Public Charitable Trust Vs. State of U.P. and others" (2000, AIR, SCW, 1882).***

In view of the above, the Writ Petition has become infructuous and is dismissed as infructuous. Ordered accordingly.

(B.S. Verma, J.)

RCP